

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

04-CR-6164L
09-CV-6506L

v.

ALLEN ABNEY,

Defendant.

On January 25, 2010, this Court entered a Decision and Order (Dkt. #187) denying Allen Abney's *pro se* motion to vacate which was brought pursuant to 28 U.S.C. § 2255.

Abney's petition (Dkt. #179) was filed on October 5, 2009, and the Government responded (Dkt. #186) on January 8, 2010.

On January 28, 2010, three days after this Court issued its January 25, 2010 Decision, Abney filed a lengthy document with attachments entitled "Petitioner's Response and 'More Detail.'" (Dkt. #188). Because Abney makes no reference to this Court's Decision of January 25, 2010, it is obvious that Abney had not received this Court's decision denying his § 2255 petition when he filed Dkt. #188.

Abney never sought leave to file additional pleadings in the § 2255 proceeding, and this Court had no reason to anticipate that more filings would be made.

Nevertheless, I have reviewed Abney's "Response" (Dkt. #188) and the numerous attachments to it, and there is nothing included in that filing which would alter, in any way, this Court's Decision and Order of January 25, 2010 (Dkt. #187) denying Abney's motion to vacate pursuant to 28 U.S.C. § 2255. Abney's response is clearly not a motion to reconsider but a filing made after the Court had already denied the petition. In any event, I would deny the motion to reconsider in all respects.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
February 3, 2010.